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POSTAL TELEGRAPH-CABLE CO. *v.* CITY OF  
CHARLOTTESVILLE.

Nov. 20, 1919.

[101 S. E. 357.]

**1. Corporations (§ 526\*)—Corporations Liable to Indictment or Other Criminal Process.**—A corporation is liable to indictment or other criminal process.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 570.]

**2. Licenses (§ 41\*)—Procedure under Warrant to Obtain Fine for Violation of Ordinance.**—Under an ordinance of the city of Charlottesville, prescribing a license tax for telegraph companies and providing that a delinquent may be summoned before the police justice to show cause why it should not be fined for violation thereof, the city was not limited to such procedure, in view of Acts 1914, c. 258, § 31, and City Code, § 213, conferring jurisdiction to proceed by criminal warrant for violation of ordinances imposing license taxes.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 323.]

**3. Licenses (§ 41\*)—Procedure under Warrant for Violation of Ordinance Harmless if Error.**—If it was irregular for a city to proceed under a criminal warrant against a telegraph company for a violation of an ordinance prescribing a license tax and providing that a delinquent may be summoned before the police justice to show cause why it should not be fined, it was not reversible error, where no arrest was made under the warrant and it was merely treated as a summons to show cause, as the process could have been corrected under Code 1904, § 4107.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 323.]

**4. Criminal Law (§ 260 (11)\*)—Conclusiveness of Findings of Fact by Lower Court.**—In proceedings to fine corporation for doing business without paying tax, finding of a corporation court, in the absence of a jury, is entitled to the same weight as the verdict of a jury.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 622.]

**5. Commerce (§ 69\*)—Municipal License Tax Not Burden on Interstate Commerce.**—A license tax by a city against a telegraph company engaged in intrastate and interstate commerce cannot be shown to be unconstitutional as a burden upon interstate commerce by merely showing that the tax, if sustained, would necessitate a contribution from interstate commerce business.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 875.]

Error to Corporation Court of Charlottesville.

Proceeding by warrant by the City of Charlottesville against

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

the Postal Telegraph-Cable Company to show cause why it should not be fined for conducting intrastate telegraph business without having paid a license tax. There was a judgment imposing a fine, and the defendant brings error. Affirmed.

*John N. Sebrell, Jr.*, of Norfolk, for plaintiff in error.

*Allen & Walsh* and *Gething C. Miller*, all of Charlottesville, for defendant in error.

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TOWN OF APPALACHIA *v.* MAINOUS.

Nov. 20, 1919.

[101 S. E. 359.]

**1. Judgment (§ 342 (4)\*)—Time of Application to Set Aside Judgment Entered in Vacation.**—Under Code 1904, § 3427, a judgment entered during vacation was a final judgment; the case standing on the same footing as a judgment rendered in term would stand after adjournment of court, and the trial court has no power to hear motions or to vacate for misconduct of judge or other cause.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 310.]

**2. Judgment (§ 212\*)—Judgment Entered in Vacation.**—A judgment at law entered in vacation stands on the same footing as a final decree entered in a suit in chancery in vacation; Code 1904, § 3427, being applicable to both.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 310.]

**3. Appeal and Error (§ 1008 (2)\*)—Review of Judgment Where Jury Was Waived.**—Where a jury is waived, and all matters of law and fact are submitted to the judge for decision, his judgment is entitled to the same weight as the verdict of a jury, and will not be disturbed where evidence is conflicting.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 622.]

Error to Circuit Court, Wise County.

Proceeding by the Town of Appalachia against one Mainous. Judgment for defendant, and plaintiff brings error. Affirmed.

*C. R. McCorkle*, of Wise, for plaintiff in error.

*Morton & Parker*, of Appalachia, for defendant in error.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.